

M e m o r a n d u m**490.0740**

To: Mr. J. S. Knight
Date: Sacramento
May 2, 1950

From: E. H. Stetson

Subject: G--- E. D---, Inc.
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Account No. -- - XXXXX

This is with further reference to your memorandum of March 24 which we discussed in your office recently.

In our opinion the retailer of a television set who sells a parts warranty to the purchaser, which warranty is mandatory, is required to return the tax to the State on the total charge, inclusive of the charge for the warranty. We believe that the charge for the warranty is properly regarded as a part of gross receipts from the sale of tangible personal property and, pursuant to Ruling 67, Replacement Parts, the tax does not apply with respect to the furnishing of replacement parts by the retailer pursuant to the warranty. The sale of such parts as are furnished pursuant to the warranty will be regarded as included within the original sale and such parts may, of course, be bought by the retailer under a resale certificate and he does not become liable for tax on the cost thereof.

In the event the parts warranty is optional, it is our opinion that the seller of the warranty should be treated as the consumer of such parts, materials, and supplies as he may furnish under the warranty subject to tax measured by the purchase price of such parts, materials, and supplies to him.

In the case of a service warranty, it does not appear that an additional amount charged therefore may be regarded as part of gross receipts subject to tax. Presumably, under such a warranty, no parts would be furnished. As we understand it, no property would be furnished pursuant to the terms of the service warranty.

EHS:ph